IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.15522 of 2005.
Date of Decision: November 17, 2006.

Shiv Charn

....**Petitioner**

through
Mr. R.S.Sangwan, Advocate

Versus

Union of India & Ors.

...**Respondent**
through
Mr. Aman Chaudhary, Advocate.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

The petitioner, who was enrolled in Army as Sepoy w.e.f. 25.1.1974, was discharged w.e.f. 1.2.1989 on the ground that he was suffering with permanent disability @ 20% for life, as assessed by the Medical Board. Since then the petitioner is getting disability element pension on the basis of 25% permanent physical disability.

Relying upon the Government of India instructions dated 27.5.2002 issued by the CCDA, Allahabad whereby minimum disability pension has been increased to @50% irrespective of actual element of disability of an Ex-Army personnel, who has retired on or after 1.1.1996, the petitioner has contended that he can not be discriminated in the matter of grant of pension on the basis of these instructions merely because he was discharged from army service prior to 1.1.1996.

A Division Bench of this Court vide judgment dated 17.8.2006 passed in CWP No. 9979 of 2005 **(Naib Subedar Ravinder Kumar v Union of India & Ors.)**, a copy of which has been appended on record by the petitioner as Annexure P-1, has considered the afore-stated issue and has held that irrespective of the date of discharge from service, the Ex-Army personnel are entitled to be paid pension by computing the disability element @50% as provided in the afore-stated Government of India circular. No meaningful contention has been raised on behalf of the respondents to distinguish the petitioner's case.

Consequently, and for the reasons mentioned in the judgment rendered by this Court in **Naib Subedar Ravinder Kumar's case (supra)**, this petition is allowed in the same terms. Consequently, the petitioner is held entitled to disability pension @50% w.e.f. 1.1.1996. The arrears are, however, restricted to three years and two months' period immediately prior to filing of the present writ petition which shall be paid to the petitioner within a period of four months from the date a certified copy of this judgment is supplied to the respondents.

Disposed of.

November 17, 2006. **(SURYA KANT)**
dinesh **JUDGE**